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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,464	03/25/2004	Ryan Cunningham	U000-P04042US	9324
33356 7590 07/17/2008 SoCAL IP LAW GROUP LLP 310 N. WESTLAKE BLVD. STE 120 WESTLAKE VILLAGE, CA 91362				
EXAMINER				
MANTWANG, JOSEPH R				
ART UNIT		PAPER NUMBER		
2144				
MAIL DATE		DELIVERY MODE		
07/17/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/810,464

Applicant(s)

CUNNINGHAM ET AL.

Examiner

Joseph Maniwang

Art Unit

2144

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 61-72 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 61-72 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/309)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 61-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Radziewicz et al. (U.S. Pat. No. 5,854,897), hereinafter referred to as Radziewicz, and further in view of Landsman et al. (U.S. Pat. No. 6,880,123), hereinafter referred to as Landsman.
3. Regarding claims 61, 64, and 67, Radziewicz disclosed a method and system comprising requesting a first web page via a network connection (see column 11, lines 30-33); displaying the first web page in a browser window (see column 5, lines 22-27; Fig. 8A); detecting if the computer is not actively sending and not actively receiving data via the network connection, and if so, automatically commencing downloading a video file via the network connection to the computer (see column 5, lines 43-47, 53-54; column 6, lines 13-32, 36-39); during downloading the video file, detecting if the computer is commencing downloading a second web page, and if so, waiting to continue downloading the video file (see column 11, lines 41-44); after completing downloading the video file, storing the video file in an ad pool (see column 7, lines 11-17); wherein the size of the viewer window is of a size not less than a predetermined

minimum size (see column 13, lines 16-44); and wherein the viewer window is located on top of all open windows (see column 20, line 60 through column 21, line 5; Fig. 8A-8D).

4. Radziewicz did not specifically disclose periodically opening a viewer window in which one or more ads from the ad pool are displayed; hiding the viewer window after a predetermined display run time and keeping the viewer program hidden for a predetermined quiet interval.

5. In a related art, Landsman disclosed periodically opening a viewer window ("display window", column 32, line 28) in which one or more ads from the ad pool are displayed ("Timer based ad play...will periodically view advertisements delivered at regular time intervals rather than by user initiated events", column 32, lines 14-31); hiding the viewer window ("removes the pop up window", column 32, lines 30-31) after a predetermined display run time ("pre-defined period of time", column 32, lines 28-30) and keeping the viewer program hidden for a predetermined quiet interval ("sleep for a specified amount of time", column 32, lines 19-20).

6. It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of Radziewicz and Landsman to provide an ad viewing system that periodically displayed ads in a window and hid such a window for a predetermined quiet interval as claimed. One of ordinary skill in the art would have been motivated to incorporate such well known features as described by Landsman as it provided a more enhanced and efficient way of processing advertisements in a networking environment (column 13, line 25 through column 14, line 14).

7. Regarding claims 62, 65, and 68, Radziewicz disclosed the method and system further comprising sending a questionnaire to the computer prior to commencing downloading the second web page (see column 8, lines 1-15; column 14, lines 1-19).
8. Regarding claims 63, 66, and 69, Radziewicz disclosed the method and system wherein the viewer window is distinct from the browser window displaying the first web page (see column 13, lines 15-23; Fig. 8A).
9. Regarding claims 70-72, Radziewicz disclosed the method and system wherein the display run time of the video file is between 30 seconds and 2 ½ minutes (see column 15, line 56 through column 16, line 2).

Response to Arguments

10. Applicant's arguments filed 04/23/08 have been fully considered but they are not persuasive.
11. Regarding claims 61-72 previously rejected under 35 U.S.C. 102(b) as being anticipated by Radziewicz, Applicant's argument that the reference does not teach the newly amended limitations is moot in view of the new grounds of rejection presented above. In response to Applicant's further comments on other prior art (such as Landsman US 2003/0023488 A1), while Applicant argues that the reference does not teach the newly amended limitations in the claims, Examiner submits that Landsman above clearly does teach the limitations argued. In generally, the cited portion of Landsman teaches periodic display of an ad window accompanied by periods of hiding the window, all without user actions/initiation.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Maniwang whose telephone number is (571) 272-3928. The examiner can normally be reached on 8:00AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William C. Vaughn can be reached on (571) 272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2144

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JM

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2144